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No. 13 (Update)

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## **S. 1009 — The Intelligence Authorization Act for FY 2000**

Calendar No. 139

Reported by the Senate Select Committee on Intelligence on May 11, 1999. S. Rept. 106-48. On June 8, 1999, reported without amendment from the Committee on Armed Services (no written report).

### **NOTEWORTHY**

- The Majority Leader filed a cloture petition on the motion to proceed to the Intelligence Authorization bill on July 16. At 1:00 p.m. on Monday, July 19, the Senate will begin debate on the motion to proceed. Further, by unanimous consent, at 9:30 a.m. on Tuesday, July 20, there will be one hour of debate, equally divided between Senators Domenici and Daschle or their designees; the cloture vote will occur at 10:30 a.m. on Tuesday.
- If the Senate proceeds to the consideration of the bill, the U.C. agreement reached on May 27, 1999 would apply. This U.C. states that following the opening statements of the two managers, Senator Kyl would be recognized to offer an amendment relative to national security at U.S. Department of Energy (DoE) nuclear weapons facilities. [See, for details, an RPC paper entitled, "Kyl-Domenici-Murkowski Amendment Improves Security and Accountability at U.S. Nuclear Labs," updated on 7/16/99.] The U.C. also provides that Senator Graham be recognized to offer an amendment relative to counter-intelligence.
- S. 1009 authorizes appropriations and personnel ceilings for FY 2000 for U.S. intelligence activities and programs.
- The bill as reported addresses the discovery of espionage at DoE nuclear weapons facilities by imposing an interim moratorium on, and requiring a net assessment of, the DoE's Foreign Visitor Program, and requires the FBI to consult with Executive departments and agencies concerning espionage cases at an early stage of an investigation.
- In other action, the Committee recommends an increase of \$30 million to the budget request for cyber counterintelligence to allow the DoE to install computer intrusion detection devices and to monitor e-mail at virtually all of its facilities. The Committee notes that the absence of such a capability today is a counterintelligence weakness.
- The classified nature of U.S. intelligence activities prevents the Committee from disclosing the details of its budgetary recommendations in its report. However, the Committee has prepared a classified supplement to the report which is available for review by any member of the Senate.

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## **BACKGROUND**

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The Committee conducted a detailed review of the FY 2000 requests for the National Foreign Intelligence Program (NFIP) of the Director of Central Intelligence; the Joint Military Intelligence Program (JMIP) of the Deputy Secretary of Defense; and the Tactical Intelligence and Related Activities (TIARA) of the military services. This review included briefings, a review of budget justification materials, and responses by the Intelligence Community to specific questions posed by the Committee.

In addition to its annual review of the Administration's budget request, the Committee performs continuing oversight of various intelligence activities and programs. The Committee has a dedicated Audit Staff that conducts in-depth audits and reviews of specific programs and activities identified by the Committee as needing a thorough and concentrated scrutiny. The Audit Staff participated in the Committee's China investigation and is currently reviewing the authorities and administrative operations of the National Imagery and Mapping Agency (NIMA).

Further, in 1997, the Committee established a Technical Advisory Group (TAG), an independent panel of 25 experts from the private sector to provide the Committee with an objective and comprehensive evaluation of various intelligence programs and activities. The findings and recommendations of the TAG, which explored signatures intelligence and the future of U.S. imagery intelligence, are supplied in the Classified Annex accompanying the committee report.

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## **BILL PROVISIONS**

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### **National Foreign Intelligence Program (NFIP)**

- The Intelligence Community is proceeding with the Future Imagery Architecture (FIA) to modernize imagery collection to meet the challenges of the next century. The classified annex of the FY 1999 Intelligence Authorization Act imposed a cost cap on FIA. Since the FIA contract is currently being negotiated, the Committee believes it is imperative that the cap remain in place until the contractors can define what requirements can be met within the cap and whether the Intelligence Community may need additional resources. The FIA cost cap is therefore sustained in the Classified Annex.

## **Joint Military Intelligence Program (JMIP)**

- While the Committee supports the National Imagery and Mapping Agency's (NIMA) efforts, it believes the transition to greater reliance on the private sector can be accelerated. To help achieve this goal, the Committee recommends a reduction in Geospatial Production by \$75 million and increasing acquisition of commercially-provided geospatial data by \$25 million.
- The Committee strongly supports giving unmanned aerial vehicles a greater role in performing many intelligence, surveillance, and reconnaissance missions, as well as early warning missions, airborne communications relay missions, and potentially, boost phase intercept missions in support of Ballistic Missile Defense. In an effort to prevent further delays and additional cost overruns, the Committee recommends an authorization of an additional \$31 million for the unmanned aerial vehicle (UAV) Global Hawk program.
- Due to Army restructuring of its tactical UAV acquisition program in 1999, the \$45.8 million requested in procurement funds for FY 2000 cannot be obligated. However, the funds are required in Research, Development, Test and Evaluation (RDT&E) for continuation of source selection efforts. The Committee therefore recommends that the procurement money be authorized for appropriations in RDT&E.
- Due to Administration termination of the Dark Star UAV, the Committee eliminates the \$6 million request for that program.
- Highlighting concern of the growing threat posed to the United States both domestically and internationally by transnational threats (such as terrorism, narcotics trafficking, organized crime and proliferation), and pointing to the United States' model program for dealing with these problems, the Gulf States Initiative (GSI), the Committee adds \$15 million to expand the GSI to combat the spectrum of transnational threats.

## **Department of Energy Intelligence Programs**

Over the past nine years, the Committee repeatedly has highlighted its deep concern about the adequacy of the DoE's Counterintelligence Program and the national security impact of the DoE's wide-ranging programs. During this time, the Committee has directed that a number of assessments of the DoE's counterintelligence practices be conducted. Each has reinforced the Committee's view that the DoE's counterintelligence program is riddled with systemic weaknesses.

Beginning in 1990, the Committee has matched its concerns with recommended increases in the size and effectiveness of DoE's counterintelligence program. This bill continues those efforts, and includes the following:

- An increase to the budget request of \$30 million for cyber counterintelligence. The Committee notes that the absence of this capability today is a counterintelligence weakness.

- A requirement that a net assessment of the Foreign Visitors Program be conducted to judge the overall efficacy of this program. The Director of Central Intelligence (DCI) and the Director of the FBI are to appoint an independent panel of experts to issue an unclassified report that can be made available to the public, to the extent feasible.
- As an interim measure, a moratorium on the Foreign Visitors Program is to be imposed at certain facilities until the Department fully implements a comprehensive, fully effective, and sustained counterintelligence program. This moratorium applies only to individuals from countries on the DoE's sensitive country list.
- A requirement that background checks, to include the consultation of all available, appropriate, and relevant intelligence community and law enforcement indices and data bases, be conducted on all foreign visitors to national laboratories.

## **Counterintelligence**

- Given the potential unreliability of the polygraph system, the Committee believes that alternatives should be explored and directs the DCI and the Director of the FBI jointly to conduct an assessment of alternative technologies to the polygraph for use in counterintelligence programs.

## **Encryption**

- The Committee believes that export restrictions on encryption are necessary to protect our national security. Over the past four years, the Administration has significantly loosened restrictions on the export of encryption, while legislation has been introduced in Congress to further relax restrictions. The Committee believes further precipitous and inappropriate loosening of encryption export restrictions may severely damage the Intelligence Community's ability to perform its Signals Intelligence (SIGINT) mission, as signals intelligence provides information on foreign governments, militaries, and nonstate actors. Therefore, the Committee intends to look very closely at any legislation regarding encryption export policy.

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## **COST**

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Pursuant to paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimated costs incurred in carrying out the provisions of this bill, for FY 2000, are set forth in the classified annex of this bill.

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## **ADMINISTRATION POSITION**

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There was no Statement of Administration Policy available at press time.

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## **POSSIBLE AMENDMENTS**

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Kyl-Domenici-Murkowski. To improve security and accountability at U.S. nuclear weapons laboratories.

Graham. Relative to counter-intelligence. [On May 27, 1999, during consideration of the Defense Authorization bill, Senator Graham withdrew Amendment No. 447, to establish a commission on the counterintelligence capabilities of the United States.]

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